

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Pacific Gas and Electric Company (U 39 G),

Complainant,

vs.

Calpine Corporation, CPN Pipeline Company;
Calpine Energy Services, L.P., Calpine Natural
Gas Company; Lodi Gas Storage, LLC; and
DOES 1-10,

Defendants.

Case 03-07-031
(Filed July 22, 2003)

**ADMINISTRATIVE LAW JUDGE'S RULING
REGARDING THE UTILITY REFORM NETWORK'S NOTICE
OF INTENT TO CLAIM COMPENSATION**

Summary

Pursuant to Pub. Util. Code §§ 1801-12, The Utility Reform Network (TURN) filed a Notice of Intent (NOI) on November 6, 2003, to claim intervenor compensation for its participation in this proceeding. After consultation with the Assigned Commissioner, I find in this ruling that TURN's NOI is timely, that TURN is a customer under the intervenor compensation statute, that it has set forth the nature and extent of its participation and itemized its proposed fees and costs, and that it has demonstrated financial hardship.

Timeliness of Filing

Under § 1804(a)(1), "[a] customer who intends to seek an award under this article shall, within 30 days after the prehearing conference is held, file and serve

on all parties to the proceeding a notice of intent to claim compensation.” Here, the prehearing conference occurred on October 16, 2003, so TURN’s November 6, 2003 NOI was timely.

Customer Status

TURN must demonstrate that it is a customer, as defined in Section 1802(b) and identify whether it is a participant representing consumers, a representative authorized by a customer, or a representative of a group or organization that is authorized by its bylaws or articles of incorporation to represent the interests of residential ratepayers.¹

TURN is a non-profit consumer advocacy organization, and has a long history of representing the interests of residential and small commercial customers of California's utility companies before this Commission. TURN's articles of incorporation specifically authorize its representation of the interests of residential customers. I find pursuant to Section 1802(b) that TURN is a “customer” as that term is used in the intervenor compensation statutes.

¹ In D.98-04-059, the Commission directed intervenors to state in their NOIs which of three customer “categories” they fall within. TURN is a “group or organization authorized pursuant to its articles of incorporation or bylaws to represent the interests of residential ratepayers.” The decision also requires groups such as TURN to include in their NOIs a copy of the authorization in their articles of incorporation to represent residential customers, or to provide a reference to a previous filing. D.98-04-059, p. 30. TURN provided the relevant portion of its articles of incorporation in the NOI submitted in A.98-02-017, and again in A.99-12-024. The articles of incorporation have not changed since the time of those earlier submissions. Finally, D.98-04-059 directs groups such as TURN to indicate the percentage of their members that are residential ratepayers. *Id.*, FOF 12. TURN has approximately 30,000 dues paying members, of whom it believes the vast majority are residential ratepayers. TURN states that it does not poll its members in a manner that would allow a precise breakdown between residential and small business members, so a precise percentage is not available.

Financial Hardship

TURN has opted to make its showing of significant financial hardship in its NOI pursuant to Section 1804(b)(1), which states in part that,

A finding of significant financial hardship shall create a rebuttable presumption of eligibility for compensation in other commission proceedings commencing within one year of the date of that finding.

TURN received a finding of significant financial hardship in a ruling issued by Administrative Law Judge (ALJ) Bemederfer in Application (A.) 02-07-050 dated March 25, 2003. This proceeding commenced within one year of the date of ALJ Bemederfer's finding, so the rebuttable presumption applies in this case.

No party challenged TURN's eligibility for compensation in this proceeding, so the presumption of TURN's eligibility is now conclusive.

Nature and Extent of Planned Participation

Section 1804(a)(2)(A)(i) requires a statement of the nature and extent of the customer's planned participation in the proceeding to the extent this can be predicted. TURN states that it anticipates taking a monitoring role in this proceeding. To this end, TURN has reviewed the pleadings filed to date, participated in the conference calls regarding discovery and scheduling issues, attended the prehearing conference, and reviewed the protective order drafts. I note that since filing its NOI, TURN has also participated in review of and comment upon the settlement proposal in the case.

TURN's statement is adequate.

Itemized Estimate of Compensation

Section 1804(a)(2)(A)(ii) requires an itemized estimate of the compensation the customer expects to receive. TURN estimates that it will devote roughly

120 hours of attorney time to this proceeding. Adding in estimated attorney expenses of about \$1300 produces a total projected budget of \$30,000 for this case.

This estimate appears quite high now that the case is before the Commission for approval of a full settlement of all claims. I anticipate that TURN's request for intervenor compensation will be for a far lower amount. Whatever the case, TURN made an adequate estimate at the time it filed its NOI.

IT IS RULED that The Utility Reform Network has established its eligibility for intervenor compensation in this proceeding.

Dated May 7, 2004, at San Francisco, California.

/s/ SARAH R. THOMAS

Sarah R. Thomas
Administrative Law Judge

CERTIFICATE OF SERVICE

I certify that I have by mail this day served a true copy of the original attached Administrative Law Judge's Ruling Regarding The Utility Reform Network's Notice of Intent to Claim Compensation on all parties of record in this proceeding or their attorneys of record.

Dated May 7, 2004, at San Francisco, California.

/s/ TERESITA C. GALLARDO

Teresita C. Gallardo

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

The Commission's policy is to schedule hearings (meetings, workshops, etc.) in locations that are accessible to people with disabilities. To verify that a particular location is accessible, call: Calendar Clerk (415) 703-1203.

If specialized accommodations for the disabled are needed, e.g., sign language interpreters, those making the arrangements must call the Public Advisor at (415) 703-2074, TTY 1-866-836-7825 or (415) 703-5282 at least three working days in advance of the event.